

Message Text

CONFIDENTIAL

PAGE 01 MONROV 03419 01 OF 02 171247Z

ACTION AF-10

INFO OCT-01 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00
COME-00 EPG-02 DODE-00 EB-07 FEAE-00 FPC-01 H-01
INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04
OES-07 SP-02 SS-15 STR-04 TRSE-00 ACDA-07 NSCE-00
SSO-00 USIE-00 INRE-00 OPIC-03 PA-01 PRS-01 /098 W
-----171313Z 038569 /45

O 171111Z MAY 77

FM AMEMBASSY MONROVIA

TO SECSTATE WASHDC IMMEDIATE 4752

C O N F I D E N T I A L SECTION 1 OF 2 MONROVIA 3419

E.O. 11652: GDS

TAGS:EINV, ENRG, LI

SUBJECT: TWO AMERICAN FIRMS CONSIDER THEIR INTEREST IN LIBERIA
REFINING

CO. (LRC) TO HAVE BEEN EXPROPRIATED

REF: MONROVIA 3210

1. GOL MINISTER OF FINANCE PHILLIPS HAS PROVIDED AMBASSADOR WITH COPY

OF TELEX MESSAGE WHICH PHILLIPS HAS RECEIVED FROM FRED B. BUCHANAN,
PRESIDENT OF SUN TRADING AND MARINE TRANSPORT, INC. WITH REGARD TO
LRC AS FOLLOWS:

QUOTE: IN VIEW OF THE PAST ACTIONS AND INACTIONS OF THE REPUBLIC OF
LIBERIA, IT IS WITH THE UTMOST RELUCTANCE THAT WE MUST ADVISE YOU THAT

SUN TRADING & MARINE TRANSPORT, INC. (STMT), THE MAJORITY SHAREHOLDER
OF LIBERIA REFINING COMPANY (LRC), AND DYNALECTRON CORP (DYN),
CONSIDERS THEIR EQUITY AND DEBT INTERESTS IN LRC TO HAVE BEEN EXPRO-
PRIATED BY THE LIBERIAN GOVERNMENT. THE RECENT CONVERSATIONS BETWEEN
YOURSELF, AND LRC'S EXECUTIVE VICE PRESIDENT, MR. F. P. GLAZIER, CON

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PAGE 02 MONROV 03419 01 OF 02 171247Z

FIRM THIS FACT.

THE FOLLOWING IS A BRIEF SUMMARY OF THE FACTS SUBSTANTIATING OUR
POSITION:

(1) AS YOU ARE AWARE, THE OIL REFINERY AGREEMENT, AND CLARIFICATION
THERE TO, PROVIDES IN PART THAT EX-REFINERY PRODUCT PRICES
REQUIRE APPROVAL OF THE LIBERIAN GOVERNMENT AND ARE TO BE ESTABLISHED

ANNUALLY. DURING THE WORLD OIL CRISIS BY MUTUAL AGREEMENT AND IN CON-

SIDERATION OF CERTAIN CONCESSIONS ON THE PART OF LRC, IT WAS AGREED THAT ADJUSTMENTS WOULD BE HANDLED QUARTERLY. PRIOR TO MARCH 1976, THE PARTIES HAD AGREED THAT THE EX-REFINERY PRICING WOULD INCLUDE A MARGIN OF \$.05 PER GALLON TO COVER OPERATING AND OTHER COSTS, TAXES AND PROFIT. INCLUDED IN SUCH EX-REFINERY PRICING WAS THE "SAMOS STAR"

FIVE YEAR CHARTER WHICH THE GOVERNMENT REQUIRED LRC TO ACCEPT, AND WHICH LRC ACCEPTED ONLY ON THE CONDITION THAT THE GOVERNMENT WOULD NOT UNILATERALLY DECREASE THE \$.05 PER GALLON MARGIN. THE GOVERNMENT'S UNILATERAL ACTION IN REDUCING THIS MARGIN FROM \$.05 PER GALLON TO \$.04 PER

GALLON, WITHOUT THE CONCOMMITANT CANCELLATION OF THE "SAMOS STAR" TIME CHARTER, PLUS THE DELAY IN GRANTING THE JANUARY 1976 PRICE ADJUST-

MENT GRANTED ON MAY 24, 1976 PLUS THE INADEQUACY OF THE ADJUSTMENT (ADJUSTMENT NEEDED \$.0657 PER GALLON; ADJUSTMENT GRANTED \$.03 PER GALLON) HAD THE NET EFFECT OF CAUSING LRC TO LOSE APPROXIMATELY \$750,000

DURING 1976. OUR REPEATED NOTICES TO THE GOVERNMENT OF THIS SITUATION

AND ITS ULTIMATE EFFECT ON THE FINANCIAL POSITION OF LRC PRODUCED NO RESULTS.

(2) YOU WILL RECALL THAT THE OIL REFINERY AGREEMENT, AND CLARIFICATION

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PAGE 03 MONROV 03419 01 OF 02 171247Z

THEREFORE, WE WERE ASSIGNED TO LRC, THEREAFTER, ON JULY 28, 1964, LRC, THROUGH ITS AGENT, HYDROCARBON RESEARCH, INC. (HRI), ENTERED INTO A CONSTRUCTION, OPERATION AND MAINTENANCE AGREEMENT WITH THE GOVERNMENT.

THAT AGREEMENT PROVIDES THAT SHOULD A SHORTAGE OF PRODUCTS OCCUR IN LIBERIA, THEN LRC WILL SUPPLY AND DISTRIBUTE SAME, "PROVIDED, HOWEVER,

THIS PROVISION WILL NOT APPLY IN THE CASE WHERE SUCH SHORTAGE HAS BEEN BROUGHT ABOUT AS A RESULT OF FORCE MAJEURE." RECENTLY, LRC EXPERIENCED A FIRE OF UNKNOWN ORIGIN, WHICH WAS CLEARLY A FORCE MAJEURE EVENT, WHICH NECESSITATED CLOSING THE REFINERY FOR REPAIRS. ALTHOUGH NOT LEGALLY REQUIRED TO DO SO, LRC, AS EVIDENCE OF ITS CONTINUED GOOD FAITH AND ITS BELIEF IN HUMANISTIC CAPITALISM, HOPED AND DESIRED TO SUPPLY THE REQUIRED PETROLEUM PRODUCTS TO LIBERIA

AT LRC'S TOTAL COST (I.E., COST OF PRODUCT, TRANSPORTATION, PORT FEES,

CONSULAR FEES, WHARFAGE, DISTRIBUTION, AS WELL AS THE PAYROLL AND OVERHEAD COSTS OF ALL PERSONNEL) UNTO THE REFINERY COULD BE PLACED

BACK IN OPERATION. THE GOVERNMENT, HOWEVER, INSISTED THAT LRC CONTINUE

TO SUPPLY IMPORTED PRODUCTS AT THE GOVERNMENT-CONTROLLED, CONFISCATORY PRICE LEVELS WITHOUT CONSIDERATION OF THE HIGHER PRODUCT COST TO LRC AND ITS OPERATING EXPENSES, EVEN THOUGH LRC SUFFERED A SUBSTANTIAL LOSS DUE TO NOT ONLY TO THE GOVERNMENT PRICE CONTROLS, BUT ALSO TO THE UNWILLINGNESS OF THE PRICING COMMISSION EVEN TO CONSIDER PERMITTING THE HIGHER COST OF IMPORTED PRODUCTS TO BE RECOVERED ON A PASS-THROUGH BASIS. THIS WAS A CLEAR VIOLATION OF THE AGREEMENT AND RESULTED IN A FURTHER LOSS TO LRC OF APPROXIMATELY FOUR MILLION DOLLARS DURING THE PERIOD DECEMBER 25, 1976 TO APRIL 25, 1977.

(3) THE UNDUE AND UNWARRANTED INTERFERENCE OF THE LIBERIAN GOVERNMENT

IN THE AFFAIRS OF LRC WAS INITIALLY DEMONSTRATED BY THE GOVERNMENT'S ORDER THAT LRC PURCHASE A CARGO OF PRODUCT, WHICH PURCHASE HAD BEEN CONFIDENTIAL

CONFIDENTIAL

PAGE 04 MONROV 03419 01 OF 02 171247Z

UNILATERALLY NEGOTIATED BY THE LIBERIAN GOVERNMENT, WITHOUT CONSULTATION WITH LRC, EVEN THOUGH SUFFICIENT QUANTITIES OF THIS PRODUCT HAD ALREADY BEEN PROCURED BY LRC. THE PURCHASE AGREEMENT NEGOTIATED BY THE LIBERIAN GOVERNMENT WAS NOT CONSUMMATED BECAUSE LRC HAD INSUFFICIENT FUNDS WITH WHICH TO MAKE THE PURCHASE. FINALLY, THE LIBERIAN GOVERNMENT ORDERED ALL OF THE PURCHASING, SHIPPING AND DISTRIBUTION OF CRUDE AND PRODUCTS TO BE COORDINATED THROUGH ITS MINISTRY OF COMMERCE, INDUSTRY AND TRANSPORTATION. IN ADDITION, ON APRIL 26, 1977, THE GOVERNMENT DIRECTED LRC TO ACCEPT DELIVERY OF A CARGO WHICH THE GOVERNMENT HAD ORDERED, DISTRIBUTE THE CARGO AND RETURN THE RECEIPTS FROM THE SALE THEREOF TO BE PAID DIRECTLY TO THE GOVERNMENT WITHOUT REGARD TO LRC'S PREVIOUS OBLIGATION TO THE BANK OF LIBERIA.

(4) STMT RECENTLY ENTERED INTO AN AGREEMENT WITH A THIRD PARTY WHICH WOULD HAVE RESULTED IN THE SALE OF STMT'S INTERESTS IN LRC UPON TERMS FAVORABLE TO STMT. THE GOVERNMENT ARBITRARILY DECLINED TO APPROVE THE SALE EVEN THOUGH REPEATED EFFORTS WERE MADE BY THE PURCHASER TO SECURE SUCH APPROVAL.

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PAGE 01 MONROV 03419 02 OF 02 171252Z
ACTION AF-10

INFO OCT-01 ISO-00 ERDA-05 AID-05 CEA-01 CIAE-00
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FM AMEMBASSY MONROVIA
TO SECSTATE WASHDC IMMEDIATE 4753

C O N F I D E N T I A L SECTION 2 OF 2 MONROVIA 3419

(5) REPEATED REQUESTS FOR THE GOVERNMENT TO ENTER INTO NEGOTIATIONS LEADING TO THE GOVERNMENT'S PURCHASE OF SUN'S STOCK HAVE BEEN MET WITH CONTINUED DELAYS; THE TWO MOST RECENT EXAMPLES BEING NOVEMBER, 1976, WHEN THE MINISTRY OF FINANCE CLAIMED THAT THE GOVERNMENT WAS NOT YET READY TO NEGOTIATE; AND THE TELEX OF FEBURARY 2, 1977, REQUESTING ADDITIONAL INFORMATION. THE FINAL COMMUNICATION WAS YOUR LETTER OF APRIL 29, 1977 WHICH STATED THAT THE GOVERNMENT WAS NOT INTERESTED IN PURCHASING SUN'S FINANCIAL INTEREST IN LRC, BUT THAT IT WAS INTERESTED IN PURCHASING SUN'S FINANCIAL INTEREST IN LRC, BUT THAT IT WAS INTERESTED IN BUYING ONLY THE PHYSICAL ASSETS OF LRC (RECENTLY APPRAISED AT A REPLACEMENT COST OF \$35 MILLON) FOR \$1,500,000, WITHOUT SPECIFYING TERMS. THIS CONFISCATORY PRICE OFFER AMOUNTED ONLY TO APPROXIMATELY TWICE THE COST OF REPLACING THE REFINERY CRUDE OIL HEATER DESTROYED IN DECEMBER 1976. AS A RESULT OF THE CONFISCATORY PRICING POLICIES PROMULGATED BY THE GOVERNMENT, DEMANDS TO DIRECTLY PROVIDE PRODUCT AT A LOSS, INTERFERENCE BY THE GOVERNMENT IN ARRANGING PRODUCT PURCHASES, AND LACK OF GOVERNMENT APPROVAL TO SELL SUN'S AND DYNALECTRON'S EQUITY AND DEBT INTERESTS IN LRC HAS BEEN EXPROPRIATED.

WE RECOGNIZE THE SOVEREIGN POWER OF THE REPUBLIC OF LIBERIA, INCLUDING THE RIGHT TO SET PRODUCT PRICES AND THE RIGHTS OF EXPROPRIATION AND CONDEMNATION. HOWEVER, AS YOU ARE WELL AWARE, CONFIDENTIAL

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PAGE 02 MONROV 03419 02 OF 02 171252Z

INTERNATIONAL LAW REQUIRES THAT PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION BE PAID FOR THE VALUE OF THE EXPROPRIATED PROPERTY. WE FIND THE GOVERNMENT'S OFFER OF \$1.5 MILLION FOR THE PHYSICAL PLANT TO BE UNREASONABLY AND UNREALISTICALLY LOW AND THE FINAL EVIDENCE OF A DELIBERATE PROGRAM OF PLANNED EXPROPRIATION. STMT THEREFORE, HAS REMOVED ITSELF THIS DATE FROM ALL MANAGEMENT AND OPERATING RESPONSIBILITIES FOR LRC AND HAS SEVERED ALL TIES AND OBLIGATIONS BETWEEN LRC AND STMT EXCEPT FOR THE RIGHT TO COLLECT CONTRACTUAL PAYMENTS TO SUN BY LRC ON THE MORTGAGE NOTE OF APRIL

1, 1974 AS AMENDED AND FOR THE AMOUNTS OWED TO SUN BY LRC. STMT'S MOST RECENT MANAGEMENT CONTRACT EXPIRED IN AUGUST 1976, AND HAS NOT BEEN RENEWED.

DYNALECTRON, SIMILARLY, IS REMOVING ITSELF FROM ALL ASPECTS OF LRC'S OPERATIONS AND HAS SEVERED ALL TIES AND OBLIGATIONS BETWEEN LRC AND DYNALECTRON EXCEPT FOR THE RIGHT TO COLLECT CONTRACTUAL PAYMENTS TO DYNALECTRON AND THE REPUBLIC NATIONAL BANK ON THE MORTGAGE NOTE OF APRIL 1, 1974 AS AMENDED.

WE SUGGEST THAT THE REMAINING PARTIES OF INTEREST MOVE QUICKLY TO RESUSCITATE LRC SO THAT IT CAN MEET ITS FUTURE FINANCIAL OBLIGATIONS. WE STAND READY TO NEGOTIATE JUST COMPENSATION FOR OUR EXPROPRIATED PROPERTY AT ONCE. FOR YOUR INFORMATION, SUN'S CURRENT TOTAL AMOUNT OF INVESTMENT IN LRC CONSISTING OF ITS EQUITY, THE UNRECOVERED PORTION OF ITS INVESTMENT IN LRC AND THE CURRENT UNPAID INTEREST THEREON PRESENTLY IS \$15,850,000. DYNALECTRON'S (INCLUDING THE REPUBLIC NATIONAL BANK OBLIGATION) CURRENT TOTAL AMOUNT OF INVESTMENT IS APPROXIMATELY \$3,942,000. FRED E. BUCHANAN, PRESIDENT, SUN TRADING & MARINE TRANSPORT, INC. UNQUOTE.

2. MINISTER PHILLIPS REPLY TO SUN'S MESSAGE WILL BE SENT IN SEPTTEL.

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Message Attributes

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